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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
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v.)
)
GARY JAMES ROLLER,)
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Defendant.)
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No. CR 08-00361 RMW

**STIPULATION AND ☐ ORDER CONTINUING STATUS
CONFERENCE FROM JANUARY 5,
2009 TO FEBRUARY 2, 2009 AND
EXCLUDING TIME FROM JANUARY
5, 2009 TO FEBRUARY 2, 2009, FROM
CALCULATIONS UNDER THE
SPEEDY TRIAL ACT (18 U.S.C. § 3161)**

The parties hereby request that the Court enter this order continuing the status conference from December 15, 2008 to January 5, 2009, and excluding time from December 15, 2008 through January 5, 2009. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from December 15, 2008 through January 5, 2009 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to review

1 and analyze this discovery. On December 5, 2008, the parties participated in a settlement
2 conference before Magistrate Judge Patricia V. Trumbull. Based on the settlement conference,
3 defendant and defense counsel need additional time to examine and analyze more thoroughly
4 some of the images found on defendant's computers and/or storage media. A status conference
5 will not being meaningful until after defendant and defense counsel has had an opportunity to
6 complete their investigation. For effective preparation of defense counsel, the parties agree that
7 the status conference currently scheduled for January 5, 2009 and should be continued to
8 February 2, 2009 at 9 a.m. In addition, both parties believe that an additional settlement
9 conference before Magistrate Judge Trumbull may be productive and are seeking to schedule one
10 in January 2009.

11 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
12 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
13 effective preparation of the defense; believes the exclusion is in the defendant's best interests;
14 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for
15 the period January 5, 2009 through February 2, 2009.

16 Given these circumstances, the parties believe, and request that the Court find, that the
17 ends of justice are served by excluding from calculations the period from January 5, 2009
18 through February 2, 2009 outweigh the best interests of the public and the defendant in a speedy
19 trial under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

20 IT IS SO STIPULATED.

21 DATED: 12/30/08

/s/ Richard Pointer
RICHARD POINTER

24 DATED: 12/29/08

/s/ Hanley Chew
HANLEY CHEW
Assistant United States Attorney

26 **[] ORDER**

27 Having considered the stipulation of the parties, the Court finds that: (1) the defendant
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1 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18
2 U.S.C. § 3161, January 5, 2009 through February 2, 2009, based upon the need for the defense
3 counsel to investigate further the facts of the present case, review the discovery that the
4 government has already provided and evaluate further possible defenses and motions available to
5 the defendant; (2) the exclusion of time is necessary for effective preparation of the defense and
6 is in the defendant's best interests; and (3) the ends of justice are served by excluding from
7 Speedy Trial calculations the period January 5, 2009 through February 2, 2009.

8 Accordingly, the Court further orders that (1) the status conference set for January 5,
9 2009 is vacated and that the next appearance date before this Court is scheduled for February 2,
10 2009 at 9:00 a.m.; and (2) the time January 5, 2009 through February 2, 2009 is excluded from
11 time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

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13 IT IS SO ORDERED.

14 DATED: 1/21/09
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16 THE HONORABLE RONALD M. WHYTE
17 United States District Court Judge
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